UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

MYNOR ABDIEL TUN-COS, JOSÉ PAJARITO SAPUT,)
Plaintiffs,))) Coss No. 1.17 av 00042 (A IT TCD)
v.) Case No.: 1:17-cv-00943 (AJT-TCB))
B. PERROTTE, T. OSBORNE, D. HUN YIM, P. MANNEH, and A. NICHOLS, ICE AGENTS)))
Defendants)

JOINT MOTION TO AMEND BRIEFING AND PRETRIAL SCHEDULE

Plaintiffs Mynor Abdiel Tun-Cos and José Pajarito Saput will file an amended complaint under Federal Rule of Civil Procedure 15(a)(1)(B), amending their complaint and adding additional Plaintiffs. In light of this, the parties have agreed on proposed revisions to the briefing and pretrial schedule. Accordingly, the parties jointly propose the following revised schedule:

- Plaintiffs will file their Amended Complaint by: November 16, 2017.
- Defendants' Motion to Dismiss the Amended Complaint due by: December 15,
 2017.
- Plaintiffs' Response in Opposition to Motion to Dismiss due by: January 5, 2018.
- Defendants' Reply due by: January 12, 2018.
- Arguments to be heard on: February 2, 2018.

In light of the above agreed schedule, the parties respectfully request that the hearing currently scheduled for December 8, 2017, be removed from the docket.

Moreover, the parties jointly request that the scheduling order entered by the Court on November 8, 2017, [Dkt. #22], be withdrawn pending the resolution of Defendants' Motion to

Dismiss, in which Defendants anticipate raising qualified immunity as a defense. The parties also request that all pretrial obligations be deferred until such time, and that a new scheduling order be issued after resolution of the Motion to Dismiss, if necessary. In that regard, the Defendants wish to refer the Court to *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985) ("Unless the plaintiff's allegations state a claim of a violation of clearly established law, the defendant is entitled to qualified immunity before the commencement of discovery."). Defendants reserve the right to seek a further deferral of pretrial obligations pending any appeal..

A proposed order is attached.

Dated: November 16, 2017 Respectfully submitted,

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2

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 16, 2017, I uploaded the foregoing document, as well as all attachments thereto, to this court's CM/ECF System, which caused a Notice of Electronic Filing (NEF) to be sent to:

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